

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

RONNIE WATSON BURTON,

Plaintiff,

v.

CIVIL ACTION NO. 1:06-0018
(Criminal No. 1:04-00175)

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C.A. § 636(b)(1)(B). Magistrate Judge VanDervort submitted to the court his Findings and Recommendation on November 21, 2008, in which he recommended that the District Court deny plaintiff's motion under 28 U.S.C. § 2255 to the extent it alleged claims other than ineffective assistance of counsel based on counsel's alleged failure to file an appeal.

On February 5, 2009, Magistrate Judge VanDervort filed a Supplemental Proposed Findings and Recommendation in which he recommended that the District Court deny plaintiff's motion under 28 U.S.C. § 2255 to the extent it alleged a claim of ineffective assistance of counsel based on counsel's alleged failure to file an appeal, dismiss this matter, and remove it from the court's active docket.

In accordance with the provisions of 28 U.S.C.A. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's Findings and Recommendation within either thirteen-day period. Having reviewed the Findings and Recommendation filed by Magistrate Judge VanDervort, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby **DENIES** plaintiff's § 2255 motion, **DISMISSES** this matter, and directs the Clerk to remove this case from the court's active docket.

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to plaintiff, pro se, and counsel of record.

IT IS SO ORDERED this 2nd day of March, 2009.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge